IN THE HIGH COURT OF JUDICTURE FOR RAJASTHAN AT JODHPUR.

O R D E R

Hasti Mal. Versus Smt. Manju Devi & ors.

S.B. Criminal Misc. Petition No. 780/2006
against the order dated 23-1-2006 passed
by the Judicial Magistrate, Sheoganj, district
Sirohi, in Criminal Misc. Case No. 47/2005.

...

Date of Order: September 14, 2006

PRESENT

HON'BLE MR. JUSTICE H.R. PANWAR

Mr. Shambhoo Singh, for the petitioner.
Mr. Bharat Shrimali, for the non-petitioners.

BY THE COURT:

By the instant criminal miscellaneous petition under Section 482 of the Code of Criminal Procedure, 1973 (for short, "the Code" hereinafter), the petitioner has challenged the order dated 23-1-2006 passed by the Judicial Magistrate, Sheoganj, district Sirohi (for short, "the trial Court" hereinafter) in Criminal Misc. Case No. 47/2005, whereby on an application filed by the non-petitioners under Section 125 of the Code, the trial Court modified and enhanced the monthly allowance of maintenance from Rs.300/- to Rs. 1000/- per month in favour of non-petitioner No.1 and from Rs. 300/- to Rs.600/- each per month in favour of non-petitioners No.2 and 3, the minor son and

daughter.

I Have heard learned counsel for the parties and carefully gone through the order impugned.

It is contended by the learned counsel for the petitioner that the petitioner is unable to pay such a huge amount of maintenance granted by the trial Court.

From a perusal of the impugned order, it appears that the parties led their evidence and it has been proved from the evidence that apart from a tractor, the petitioner has also agricultural land and he is running a shop and a flour mill and thereby his monthly income is about Rs.20,000/- per month. Taking into consideration the expenses which are being incurred on the education of non-petitioners No.2 and 3 and the fact that after granting the maintenance in the year 1985, there had been repeated increase in the market rate and the income of the petitioner, the trial Court enhanced the maintenance in favour of the non-petitioners. In my view, the trial Court was justified in modifying and increasing the amount of maintenance. It cannot be said that the impugned order would result in serious miscarriage of justice or abuse of process of the Court.

The criminal miscellaneous petition is, therefore, dismissed.

(H.R. PANWAR), J.

mcs